

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #6	CCRB Case #: 201410598	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/14/2014 12:35 PM	Location of Incident: § 87(2)(b)	Precinct: 60	18 Mo. SOL 4/14/2016	EO SOL 4/14/2016	
Date/Time CV Reported Wed, 10/15/2014 1:09 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 10/15/2014 1:11 PM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. POM Scott Matera	11220	906743	060 PCT		
<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>		
1. POM Michael Lettgreen	15695	951913	060 PCT		
<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>			
A.POM Scott Matera	Abuse: PO Scott Matera searched § 87(2)(b)				

### Case Summary

On October 14, 2014, a security guard called 911 to report a nonviolent situation in which a disorderly person refused to leave the Human Resources Administration (HRA) facility located at 3050 West 21<sup>st</sup> Street, in Brooklyn (encl. 9A). Approximately 20 minutes after the first 911 call, the security guard placed a second 911 call informing the operator that it might be a possible case of an emotionally disturbed person. PO Scott Matera and PO Michael Lettgreen then arrived on scene. PO Matera escorted § 87(2)(b) out of the building after she was identified to them by HRA staff. PO Matera searched § 87(2)(b)'s pocketbook after requesting to see § 87(2)(b) identification (**Allegation A**). Subsequently, § 87(2)(b) walked away and left the scene. § 87(2)(b) was not arrested, issued any summonses, or treated by EMTs in regards.

On October 15, 2015, § 87(2)(b) filed this complaint online via the CCRB website (encl. 5A-5D). This case was initially assigned to Inv. Esther Hsia. It subsequently was reassigned to Inv. Patrick Yu on March 4, 2014 (encl. 12C).

### Mediation and Criminal Histories

On February 10, 2015, § 87(2)(b) and PO Matera appeared at the CCRB for their scheduled mediation regarding this incident. At the end of the mediation, § 87(2)(b) indicated to the CCRB that she wished to proceed with an investigation; the details may not be disclosed (encl. 16A). A Notice of Claim inquiry was sent on March 12, 2015 (encl. 13G). On April 3, 2015, the NYC Comptroller's Office indicated that § 87(2)(b) has not filed a notice of claim regarding this incident (encl. 13H). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (encl. 4A).
- PO Matera has been a member of service for 21 years and has seven prior CCRB complaints, none of which were substantiated. PO Matera has had one prior search (of person) allegation pleaded against him in case #201004216 which was closed as complainant uncooperative (encl. 3A).

### Civilian Statements

#### **Complainant/Victim:** § 87(2)(b) (encl. 6D-6E)

§ 87(2)(b) was interviewed at the CCRB on February 10, 2015.

- § 87(2)(b) was inside the Coney Island Job Center, an HRA center located on 3050 West 21<sup>st</sup> Street, in Brooklyn to return some documents to her case worker.
- The security guards inside the HRA center refused to let § 87(2)(b) speak with her case worker.
- After approximately 30 to 60 minutes of waiting at the facility, § 87(2)(b) observed PO Matera and PO Lettgreen arrive.
- After a brief conversation between § 87(2)(b) and the NYPD officers, PO Matera guided § 87(2)(b) towards the exit.
- Once outside the HRA center building, PO Matera then requested § 87(2)(b) identification. § 87(2)(b) asked PO Matera why he requested for her identification.

- PO Matera then reached for § 87(2)(b) pocketbook, unzipped it, and reached inside. PO Matera did not retrieve anything from the pocketbook as a result.
- PO Lettgreen then told § 87(2)(b) to leave the premises if she did not want the ambulance to come. She stated that an ambulance never arrived on the scene and that the officers never called for the ambulance.
- § 87(2)(b) was instructed by PO Matera to come back another day. At that point, § 87(2)(b) just left the scene.

### **911 Call/Communications (encl. 9A):**

- The initial 911 call was made by § 87(2)(b) HRA security supervisor, to report a nonviolent situation inside the HRA building located on the first floor of 3050 West 21st Street. § 87(2)(b) stated that a female client was being disorderly, refused to obtain a ticket, refused to leave, and was trespassing. § 87(2)(b) noted that there were HRA police on scene, but another HRA staff member requested to have the NYPD respond.
- § 87(2)(b) then placed a follow up 911 call and stated that it was a possible “EDP” (emotionally disturbed person) case and EMS might be needed.
- The operator broadcasted that there was an EDP at the location of 3050 West 21<sup>st</sup> Street. Additionally, the operator stated that the original call came in as a disorderly person and was changed to EDP. The operator also indicated that the female EDP has a mental history. Sector C (PO Matera and PO Lettgreen) were assigned the job. After arriving, Sector C stated to the operator that it was not an EDP case just some disturbance. Sector C closed the job as a 91. ESU was initially called for, but then cancelled.

### **NYPD Statements**

#### **Subject Officer: PO Scott Matera (encl. 7F-7G).**

PO Matera was interviewed at the CCRB on March 25, 2015.

- PO Matera received a call for an AIDED at the location of 3050 West 21<sup>st</sup> Street, in Brooklyn.
- Upon arrival, PO Matera spoke with two HRA security officers, both of which stated that § 87(2)(b) was disruptive, disorderly, and that she might possibly be an EDP.
- After a brief conversation with § 87(2)(b) PO Matera instructed her to leave the premises on the request of the HRA security guard and supervisor. § 87(2)(b) was hesitant, but she walked on her own after PO Matera began guiding her towards the exit while stating, “Come along.”
- Once outside the building, PO Matera requested § 87(2)(b) identification twice for the sole purpose of obtaining her information. However, § 87(2)(b) provided no response.
- PO Matera then requested to look inside § 87(2)(b) s pocketbook. He observed the pocketbook to be zipped closed in between her arm and side of her body. § 87(2)(b) appeared to be surprised from PO Matera’s request.
- PO Matera then asked, “May I?” Simultaneously, PO Matera reached for § 87(2)(b) pocketbook. § 87(2)(b) did not provide any acknowledgment, nod, or make any physical gesture other than a smirk.
- Subsequently, PO Matera removed the pocketbook from § 87(2)(b) unzipped the pocketbook and opened it.

- PO Matera did a “basic look” to check for any medications and for § 87(2)(b) identification. PO Matera denied reaching inside the pocketbook and did not retrieve anything as a result. Moreover, PO Matera never obtained § 87(2)(b) identification.
- The identification check was solely for information and at no time did PO Matera determine § 87(2)(b) to be in violation of any law.
- After returning the pocketbook to § 87(2)(b) PO Matera asked § 87(2)(b) if she wanted to go inside the ambulance and be transported to the hospital. § 87(2)(b) did not provide a response and walked away from the scene.
- The job’s final disposition was then corrected by PO Matera and PO Lettgreen to a non-crime (10-91).

**Witness Officer: PO Michael Lettgreen (encl. 8F)**

PO Lettgreen was interviewed at the CCRB on March 25, 2015.

- On October 14, 2014, at approximately 12:20 p.m., PO Lettgreen and his partner, PO Matera received a call in regards to an EDP at the incident located on 3050 West 21<sup>st</sup> Street, in Brooklyn.
- Upon arrival, an HRA officer (believed by PO Lettgreen to be a Sergeant) informed PO Lettgreen and PO Matera that § 87(2)(b) was inside. The HRA officer further stated to the officers that § 87(2)(b) refused to leave the premises upon requests.
- After speaking with § 87(2)(b) and a third staff member, the HRA manager, PO Lettgreen told § 87(2)(b) that she had to leave.
- § 87(2)(b) was compliant, but PO Lettgreen needed to physically guide her out by her arms. However, § 87(2)(b) walked willingly out of the building.
- PO Matera then asked § 87(2)(b) for her identification. After receiving no response from § 87(2)(b) PO Matera asked § 87(2)(b) for her pocketbook. PO Lettgreen stated that § 87(2)(b) then held her pocketbook in front of her and presented it to PO Matera by extending her arms out towards PO Matera.
- PO Lettgreen stated that § 87(2)(b) willingly let PO Matera search her pocketbook. PO Lettgreen did not recall if the pocketbook was closed or opened prior to PO Matera obtaining it.
- PO Matera proceeded to look inside the pocketbook by reaching inside. The search lasted for a few seconds. At some point, PO Matera told PO Lettgreen that he was searching the pocketbook to see if § 87(2)(b) had any medication.
- § 87(2)(b) was then asked if she wanted to go inside the ambulance. § 87(2)(b) was nonresponsive and just walked away from the officers.
- PO Lettgreen stated that he had changed the job to a dispute job at an unspecified point during the incident, but the final disposition was non-crime (10-91).

**Findings and Recommendations**

**Allegation A- Abuse of Authority: PO Scott Matera searched § 87(2)(b)**

It is undisputed that PO Matera searched § 87(2)(b) pocketbook during the incident (encl. 6D-6E, 7F-7G, 8F). § 87(2)(g)

Consent may be established by an individual’s conduct or words, People v. Santornino 153 A.D.2d 595 (2<sup>nd</sup> Dept. 1989) (encl. 1A-1B). An officer’s request for information (identity, address, and destination) is considered a general, nonthreatening encounter. However, an officer cannot

request for consent to search without any founded suspicion that criminality is afoot, People v. Hollman 79 N.Y. 2d 181 (1992) (encl. 2A-2F).

§ 87(2)(b) and PO Matera both stated that § 87(2)(b) never provided consent for PO Matera to search her pocketbook (encl. 6D-E and 7F-7G). § 87(2)(g)

§ 87(2)(b) PO Lettgreen stated that § 87(2)(b) gave voluntary consent by extending her arm and presenting her pocketbook to PO Matera (encl. 8F). § 87(2)(g)

§ 87(2)(b) was never seen by the EMTs or transported to the hospital in regards. At the time PO Matera requested § 87(2)(b) identification, the incident was over as she had already willingly left the HRA building with the officers. § 87(2)(g)

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date